



Jeb Bush
Governor

Department of Environmental Protection

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Colleen M. Castille
Secretary

WETLAND RESOURCE PERMIT MODIFICATION

PERMITTEE:

U.S. Army Corps of Engineers
Jacksonville District
Post Office Box 4970
Jacksonville, FL 32232-0019

Attn.: Richard Bonner
Deputy District Engineer

Original Permit Number: 06, 132604959
Modification No.: 0223460-001

Date of Issue: April 28, 2004
Expiration Date: October 23, 2005

County: Dade County
Project: Modified Water Deliveries to
Everglades National Park- 8.5 Square Mile
Area Modification

This permit modification is issued under the provisions of Chapters 373 and 403 Florida Statutes, Public Law 92-500, Title 62, and Rule 62-312, Florida Administrative Code. The above named permittee is hereby authorized to perform the work shown on the application and approved drawing(s), plans, and other documents attached hereto or on file with the Department and made a part hereof and specifically described as follows:

Construct: Modify Permit No. 06, 132604959 to allow for construction of all features of the 8.5 Square Mile Area component of the project. The proposed component is described in Alternative 6D of the General Reevaluation Report (GRR)/ Final Supplemental Environmental Impact Statement (FSEIS), July 2000. Authorized activities include construction of an interior seepage conveyance canal and associated levees, perimeter levee, S-357 Pump Station, and stormwater treatment area. The proposed construction activities will result in lesser environmental impacts than the construction activities currently authorized by Permit No. 06, 132604959.

In Accordance With: The modification requests received on October 27, 2003 and January 21, 2004, General Reevaluation Report/ Final Environmental Impact Statement (July 2000), engineering plans and technical specifications, and supplemental supporting information received on March 1, 2004.

Location: The project is located in an existing residential area in the East Everglades, Dade County, Florida.

Other Permits: This is a permit modification to existing FDEP Wetland Resource permit 06, 132604959.

Subject to 15 General Conditions, and 9 Specific Conditions.

"More Protection, Less Process"

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GENERAL CONDITIONS:

- (1) All activities approved shall be implemented as set forth in the drawings incorporated by reference and in compliance with the conditions and requirements of this document. The Corps shall notify the Department in writing of any anticipated significant deviation from this authorization prior to implementation so that the Department can determine whether a modification is required. If the Department determines that a deviation is significant, then the Corps or the local sponsor, as appropriate, shall apply for and obtain the modification prior to its implementation.
- (2) If, for any reason, the Corps does not comply with any condition or limitation specified herein, the Corps shall immediately provide the Department with a written report containing the following information: a description of and cause of noncompliance; and the period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. Compliance with the provisions of this condition shall not preclude the Department from taking any enforcement action allowed under state law to the extent that federal sovereign immunity has been waived under 33 U.S.C. 1323 and 1344(t).
- (3) The Corps shall obtain any applicable licenses or permits which may be required by federal, state, local or special district laws and regulations. Nothing herein constitutes a waiver or approval of other Department permits or authorizations that may be required for other aspects of the total project. Projects shall not proceed until any other required permits or authorizations have been issued by the responsible agency.
- (4) Nothing herein conveys title to land or water, constitutes State recognition or acknowledgment of title, or constitutes authority for the use of sovereign land of Florida seaward of the mean high-water line, or, if established, the erosion control line, unless herein provided, and the necessary title, lease, easement, or other form of consent authorizing the proposed use has been obtained from the State.
- (5) Any delineation of the extent of a wetland or other surface water submitted as part of the application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this authorization or a formal determination under section 373.421(2), F.S., provides otherwise.
- (6) Nothing herein conveys to the Corps or creates in the Corps any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the Corps or local sponsor, or convey any vested rights or any exclusive privileges.
- (7) This document or a copy thereof, complete with all conditions, attachments, modifications, and time extensions shall be kept at the work site on the authorized activity. The Corps shall require the contractor to review this document prior to commencement of the authorized activity.

- (8) The Corps specifically agrees to allow Department personnel with proper identification, at reasonable times and in compliance with Corps specified safety standards access to the premises where the authorized activity is located or conducted for the purpose of ascertaining compliance with the term of this document and with the rules of the Department and to have access to and copy any records that must be kept; to inspect the facility, equipment, practices, or operations regulated or required; and to sample or monitor any substances or parameters at any location reasonably necessary to assure compliance. Reasonable time may depend on the nature of the concern being investigated.
- (9) At least forty-eight (48) hours prior to the commencement of authorized activity, the Corps shall submit to the Department a written notice of commencement of activities indicating the anticipated start date and the anticipated completion date.
- (10) If historic or archaeological artifacts are discovered at any time on the project site, the Corps shall immediately notify the State Historic Preservation Officer; and if a significant deviation is necessary, shall also notify the Department.
- (11) Within a reasonable time after completion of project construction or a periodic maintenance dredging event, the Corps shall submit to the Department a written statement of completion. This statement shall notify the Department that the work has been completed as authorized and shall include a description of the actual work completed. The Department shall be provided, if requested, a copy of any as-built drawings required of the contractor or survey performed by the Corps.
- (12) All of the conditions in this permit, both general and specific, are enforceable to the extent sovereign immunity has been waived under 33 U.S.C. §§ 1323 and 1344(t).
- (13) To the extent sovereign immunity has been waived under 33 U.S.C. §§ 1323 and 1344(t), the Corps agrees to comply with all applicable Florida law, including but not limited to Department rules.
- (14) The Corps agrees to retain and make available all records, notes, monitoring data, and other information relating to the construction or operation of this permitted source in accordance with the Freedom of Information Act, 5 U.S.C. § 552 *et seq.*

SPECIFIC CONDITIONS:

- (1) **Authorized Construction:** This permit authorizes construction of all features of the 8.5 Square Mile Area component in accordance with the plans and technical specifications submitted to the Department and supplemental supporting information received on March 1, 2004. Specifically, the construction of the 8.5 Square Mile Area component shall be in accordance with the Technical Specifications for Pump Station S-357 and Canal and Levee Contract (contract No. DACW17-99-D-0049, specifications dated March 2003 and December 2002, respectively), Plans for Pump Station 357 dated March 2003, Plans for 8.5 Square Mile

Area Canal and Levee dated August 2001, and the conceptual plan for the proposed Stormwater Treatment Area.

- (2) **Operational Authorization:** This modification does not constitute operational authorization for the 8.5 Square Mile Area component. Operational information shall be coordinated with the Department in a timely fashion and operational authorization shall be obtained from the Department prior to initiating operations.
- (3) **Addresses.** Reports and notices submitted to the Department in accordance with this permit shall be submitted to the Department's Division of Water Resource Management, Water Quality Standards and Special Projects Program, 2600 Blair Stone Road, MS 3560, Tallahassee, Florida, 32399-2400, telephone no. (850) 245-8424, and to the Department's Southeast District Office, Office of Environmental Affairs, 400 North Congress Avenue, Suite 200, West Palm Beach, Florida, 33401-5425, telephone no. (561) 681-6709.
- (4) **Adjacent and Interior Wetlands.** Prior to the commencement of construction, the perimeter of the protected wetlands adjacent to the construction area shall be staked and fenced off, staying within the Corps construction right of way, with construction fencing or other effective physical barriers to prevent encroachment into the wetlands. The permittee shall notify the Department's environmental compliance staff in writing upon completion of installing the barriers and schedule an inspection of this work. The barriers shall remain in place until all adjacent construction activities are complete.
- (5) **NPDES Stormwater Construction Generic Permit.** The issuance of this Permit does not constitute coverage under the National Pollutant Discharge Elimination System (NPDES) Generic Permit for Stormwater Discharges from Construction Activities (CGP) pursuant to Rule 62-621.300(4), F.A.C. The permittee is advised to obtain such coverage by contacting the Department's NPDES Stormwater Program at (866) 336-6312 or to download application information at <http://www.dep.state.fl.us/water/stormwater/npdes/construction1.htm> prior to the commencement of any construction.
- (6) **NPDES General Permit for the Discharge of Produced Ground Water from any Non-Contaminated Site Activity.** The issuance of this Permit does not constitute coverage under the NPDES General Permit for the Discharge of Produced Ground Water from any Non-Contaminated Site Activity pursuant to 62-621.300(2), F.A.C. If any offsite discharges will occur due to construction dewatering activities, then coverage under the aforementioned General Permit may be required and the permittee is advised to review Rule 62-621.300(2), F.A.C. Before discharge of produced ground water can occur, analytical tests on samples of the proposed discharge water shall be performed to determine if contamination exists. If the analytical results comply with applicable criteria for use of the General Permit, then a short summary of the proposed activity and copy of the analytical tests shall be sent to the addresses in Specific Condition No. 4 within one week after discharge begins and the permittee may proceed with the project while abiding by all conditions of the General Permit.
- (7) **Offsite Dewatering:** If any offsite discharges will occur due to construction dewatering activities, the permittee shall submit site-specific dewatering information to the Department at

least 30 days prior to commencement of dewatering activities. The plan shall include at a minimum: a site plan of the project with the location of the proposed discharge point(s) and their associated water quality monitoring locations; the location and type of turbidity control devices and methods necessary to ensure state water quality standards will be met; calculations estimating the area of influence of dewatering, the depth of dewatering, pumpage rates, duration, and volumes; details of any potential sources of pollution within or near the area of influence, including information of all existing landfills and known areas of groundwater contamination within 2 miles of the proposed dewatering activity; and any proposed methods of construction.

- (8) **Pump Station Testing and Maintenance.** In order to ensure operational readiness, initial testing may be needed by the construction contractor for the pump station authorized by this permit prior to turnover of the pump station to the permittee for operation. Operational readiness requirements for the pump station include operation of the pumps for approximately 2 to 4 hours per month, as necessary, to maintain their mechanical integrity. Therefore, temporary operation of the pump station for testing and maintenance will be allowed, subject to coordination with the Department regarding details of the pump test and any associated monitoring.
- (9) **Specific Conditions:** All specific conditions previously stipulated by FDEP Wetland Resource Permit Number 06, 132604959 remain in effect. This modification must be attached to the original permit.

RIGHTS OF AFFECTED PARTIES

The Department will issue this modification unless a timely petition for an administrative hearing is filed under sections 120.569 and 120.57 of the Florida Statutes before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below. The optional mediation proceedings described under section 120.573 will not be available.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

To petition the Department's intended action, petitions by the applicant or parties requesting notice must be filed within twenty-one days of receipt of this written notice. Petitions against the Department's intended action filed by any persons other than those entitled to written notice under subsection 120.60(3) of the Florida Statutes, must be filed within twenty-one days of publication of this notice or within twenty-one days of receipt, whichever occurs first.

The petitioner shall mail a copy of the petition to the permittee at the address indicated above at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57 of the Florida Statutes, or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-106.205 of the Florida Administrative Code.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

- a) The name and address of each agency affected and each agency's file or identification number, if known;
- b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- c) A statement of when and how the petitioner received notice of the agency decision;
- d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
- f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and
- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation is not available in this proceeding.

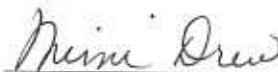
Any party to this order has the right to seek judicial review of it under section 120.68 of the Florida Statutes, by filing a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied

by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this order is filed with the clerk of the Department.

The permittee, or any party within the meaning of section 373.114(1)(a) of the Florida Statutes, may also seek appellate review of this order before the Land and Water Adjudicatory Commission under section 373.114(1) of the Florida Statutes. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department and on any person named in this order, as described in section 373.114(1)(a), within 20 days from the date when the final order is filed with the Clerk of the Department.

Executed in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jerry Brooks _____ Date
Deputy Division Director
Division of Water Resource Management

FILING AND ACKNOWLEDGMENT

FILED, on this date, with the designated Department Clerk, receipt of which is hereby acknowledged.



Clerk

04-28-04

Date

Electronic Copies furnished to:

John Adornato, National Parks Conservation Association
Cynthia Guerra, Tropical Audubon Society
Dexter Lehtinen, Lehtinen, O'Donnell, Vargas, & Reiner, P.A.
Kelly Brooks, Lehtinen, O'Donnell, Vargas, & Reiner, P.A.
Tom MacVicar, MacVicar, Frederico, & Lamb
Stephen Walker, Louis, Longman, and Walker
Charles Lee, Florida Audubon Society
Mary Ann Poole, USFWS
Dan Nehler, USFWS

Jay Slack, USFWS
Kevin Palmer, USFWS
Kim Taplin, USACE
Tambour Eller, USACE
Jim Riley, USACE
Ken Haddad, FFWCC
Dan Kimbell, ENP
David Sikkema, ENP
Mike Zimmerman, ENP
Paul Linton, SFWMD
Julia Lacy, SFWMD
Dewey Worth, SFWMD
Linda McCarthy, FDACS
Ernie Barnett, FDEP
Frank Nearhoof, FDEP
Temperince Morgan, FDEP
Herb Zebuth, FDEP
Inger Hansen, FDEP

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this, including all copies, were mailed or emailed before the close of business on 04-28-04, to the above listed persons.

Shirley Shields - for -
Jaro Joseph, Senior Clerk